



W.P.No.787 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No.787 of 2021

T.K.Mannathan
S/o.Kandasamy

... Petitioner

VS

1. The District Collector
Namakkal District
Namakkal
2. P.Sakthivel
S/o.Perumal Gounder
3. P.Kaliyannan
S/o.Perumal Gounder
4. P.Chinnusamy
S/o.Perumal Gounder
5. K.C.Sundararajan
S/o.Chinnadurai
6. The Tahsildar
Tiruchengode Taluk

Page Nos.1/8



W.P.No.787 of 2021

Tiruchengode
Namakkal District

... Respondents

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**(R6 impleaded vide order dated 19.03.2021
made in W.M.P.No.7350 of 2021)**

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the first respondent to remove the encroachment made by Respondents 2 to 5 in T.S.L.R.No.20, Block No.10, Ward No.H, Karattupalayam @ Muthanapalayam Village, Tiruchengode Taluk, Namakkal District and restore the original position of the public road.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.M.S.Arasakumar
Government Advocate for R1 and R6

Mr.R.Marudhachalamurthy for R2 and R3
R4 - Died
R5 - No Appearance

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned matter is listed under the cause list caption 'FOR
DISMISSAL'.

Page Nos.2/8



W.P.No.787 of 2021

WEB COPY

2. Mr.C.Prakasam, learned counsel expresses regret and tenders an

apology for missing the matter. Apology is accepted.

3. Subject matter of captioned writ petition is 'land comprised in T.S.L.R.No.20, Block No.10, Ward No.H, Karattupalayam @ Muthanapalayam Village, Tiruchengode Taluk, Namakkal District' [hereinafter 'said land' for the sake of brevity and convenience].

4. Mr.C.Prakasam, learned counsel for writ petitioner, Mr.M.S.Arasakumar, learned Government Advocate for R1 and R6, Mr.R.Marudhachalamurthy, learned counsel for R2 and R3 are before us. This Court is informed (as already captured in earlier proceedings) that R4 is no more and the date of demise is 15.06.2024. R5 has entered appearance through a counsel, name of the counsel is duly shown in the cause list but there is no representation for R5.

5. Captioned writ petition is of the year 2021 (date of filing is 05.01.2021). It has been pending in this Court for more than four years now. R2 and R3 have filed counter affidavit and to be noted, case against R5 is no different from the one against R2 and R3. Therefore, main writ petition was taken up and heard out.



W.P.No.787 of 2021

WEB COPY

6. After hearing both sides this Court is of the considered view that captioned writ petition deserves to be dismissed and the reasons are as follows:

i) It is not disputed that said land is patta land and it is equally not disputed that it is being used as a cart track;

ii) Writ petitioner as well as R2 and R3 are relatives and owners of adjacent lands. Therefore, this is a typical case for an easement suit (if at all and if that be so) and it does not warrant interference in the writ jurisdiction;

iii) In the counter affidavit of R2 and R3 being counter affidavit dated 28.10.2024, it has been averred that one P.Subramaniam, son of Periyasamy, who is writ petitioner's co-sharer, has filed a suit *inter alia* against R3 vide O.S.No.83 of 2020 on the file of District Munsif, Tiruchengode with prayers for injunction/mandatory injunction and subject matter is said land i.e., cart track. This is not disputed. Therefore, it is only appropriate that the remedies are worked out in the civil suit in the civil Court rather than any interference by this Court in the



W.P.No.787 of 2021

writ jurisdiction;

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iv) Mr.C.Prakasam, learned counsel pressed into service an order dated 25.01.2018 made in W.P.No.27153 of 2016, for the proposition that even if a cart track is running through patta land, it is Government land vide Revenue Standing Order 26(15). We find from the order (paragraph 4) that this is only the contention of the first respondent herein and it is not the finding of the Court. Ultimately, another Hon'ble Division Bench has dismissed the writ petition on the ground of alternate remedy vide Sections 10 and 10-A of 'the Tamil Nadu Land Encroachment Act, 1905 (Tamil Nadu Act III of 1905)' [hereinafter 'said 1905 Act' for the sake of convenience].

7. This Court makes it clear that civil Court shall proceed with the matter on its own merits and in accordance with law and even if any fresh suit regarding cart track is filed, the same shall be dealt with on its own merits and in accordance with law untrammelled by this order. In this regard, all the rights and contentions of writ petitioner, R2, R3 and R5 and any other party to civil suit stand preserved.



W.P.No.787 of 2021

WEB COPY Captioned writ petition dismissed albeit with observation as above and preservation of rights in such a manner. There shall be no order as to costs.

(M.S.,J.)

(K.G.T.,J.)

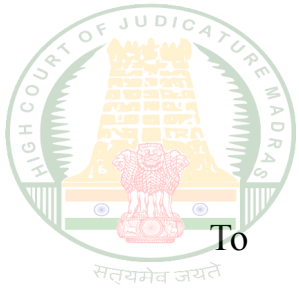
18.02.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking order

gpa



W.P.No.787 of 2021

To

WEB COPY

1. The District Collector
Namakkal District
Namakkal
2. The Tahsildar
Tiruchengode Taluk
Tiruchengode
Namakkal District



WEB COPY



W.P.No.787 of 2021

**M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

gpa

W.P.No.787 of 2021

18.02.2025

Page Nos.8/8